

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

MARION ARNOLD, #2131825

§

VS.

§

CIVIL ACTION NO. 6:18cv611

WILLIAM JONES, ET AL.

§

ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRTE JUDGE

Plaintiff Marion Arnold, a former inmate confined within the Texas Department of Criminal Justice (TDCJ), *pro se*, filed a complaint under 28 U.S.C. §1983 complaining of alleged violations of his constitutional rights occurring at the Skyview Unit. The lawsuit was referred to the United States Magistrate Judge, the Honorable K. Nicole Mitchell, pursuant to 28 U.S.C. § 636(b)(1) and (3) as well as the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On May 23, 2019, Judge Mitchell issued a Report, (Dkt. #23), recommending that Defendant Jones' motion to dismiss, (Dkt. #17), and Defendant UTMB's motion to dismiss, (Dkt. #18), be granted. A copy of this Report was sent to Plaintiff at the address he provided since he was released from prison; return receipt requested. The docket reflects that the Report was returned as "undeliverable," prompting the court to re-mail the Report to Plaintiff on June 4, 2019, (Dkt. # 24). To date, however, no objections to the Report have been filed.

Because Plaintiff failed to file objections to Judge Mitchell's Report, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings

and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

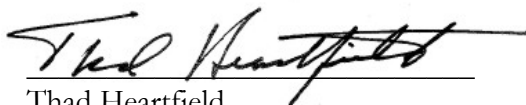
The court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #23), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Defendant Jones' motion to dismiss, (Dkt. #17), is **GRANTED** and claims against him are dismissed with prejudice. Further, it is

ORDERED that Defendant UTMB's motion to dismiss, (Dkt. #18), is **GRANTED** and claims against it are dismissed with prejudice.

SIGNED this the 28 day of August, 2019.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge